

## The complaint

Miss C complains about the quality of a car she has been financing through an agreement with MotoNovo Finance Limited ("MotoNovo").

## What happened

I issued my provisional decision on this complaint in July of this year. An extract from that provisional decision is set out below.

*Whilst I agree with the investigator's opinion I don't think he's considered compensation for distress and inconvenience or the consequential costs Miss C incurred insuring a car she couldn't use. I'll therefore explain my thoughts on the complaint and also my thoughts on those additional matters.*

*Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.*

*I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.*

*Miss C acquired her car under a hire purchase agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.*

*The Consumer Rights Act (2015) is the relevant legislation. It says, amongst other things, that the car should have been of satisfactory quality when supplied. If it wasn't then MotoNovo, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances.*

*In a case like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Miss C. The car here was about five years old when it was supplied and had already covered about 18,600 miles. So, I think a reasonable person would expect some limited wear and tear.*

*When we think about whether a car is of satisfactory quality the relevant legislation asks us to consider whether it has been durable. I'm not persuaded this car has been.*

*The independent engineer has confirmed that the failure of the Electric Motor Electronics Module (EME) was due to a sudden electrical fault. He's not been able to identify any cause of the failure and it was his opinion that the fault wouldn't have been present or developing when the car was supplied to Miss C.*

*I don't think a reasonable person would expect such a significant problem in a car after only about 25,000 miles of driving, even in a car of this age. Whilst I understand that electrical*

*faults can happen at any time I think it's reasonable to expect electrical components to have been durability tested by a manufacturer and to last longer than this one has. Especially when the failure of the component means the car battery can no longer charge and the car can't therefore be driven.*

*So, I agree with the investigator that this car has not been of satisfactory quality and in those circumstances the relevant legislation allows the business an opportunity to repair the vehicle.*

### **Putting things right**

*The warranty has covered £5,000 of the costs of the repair but as I think this car was of unsatisfactory quality MotoNovo should refund the rest and add interest to that amount as Miss C has been deprived of the money.*

*Miss C has incurred costs as a consequence of the failure of the car and it's only fair that MotoNovo refund those costs. So, they should refund the towing charge of £605 (the investigator suggested this was £604 but the evidence provided says £605), the £60 it cost to move the car from the dealership (the investigator suggested this was £65 but the text message and statement from Miss C suggest £60) back to Miss C's home, and the £300 it cost to return the car to the dealership. They'll, again, need to add interest to those refunds.*

*Miss C was without the car from 20 August 2021 until it was returned to her on 25 February 2022. It seems a courtesy car wasn't provided. Whilst it's fair that Miss C pays for the use she had from the car; it is not fair for her to pay finance instalments for the period she didn't have use of it. I'm therefore asking MotoNovo to refund any instalments paid during this time.*

*Miss C has also explained that she was paying insurance for the car during the period she was unable to use it. I think MotoNovo should therefore provide a pro-rata refund of that insurance. Refunding the portion being paid whilst the car was off the road. Miss C will need to provide evidence to MotoNovo to demonstrate the payments were made.*

*I can't see that our investigator has consider whether it would be fair for MotoNovo to compensate Miss C for any distress and inconvenience she's experienced. I think there is evidence of that. Miss C broke down on the motorway and it would have been distressing and inconvenient to have to arrange recovery. She's also had to make arrangements for transportation of the car back to the dealership and a courtesy car hasn't been provided to keep her mobile. In the circumstances I think MotoNovo should pay her £250 in compensation.*

### **My provisional decision**

*For the reasons I've given above I'm expecting to uphold this complaint and to tell MotoNovo Finance Limited to:*

- *Refund the £2,373.40 that Miss C had to pay to have the car repaired and add 8% simple interest per year to that refund from the date of payment to the date of settlement.*
- *Refund the £605 Miss C paid to have the car towed, the £60 she paid to have the car moved, and the £300 she paid to transport the car back to the dealership. Add 8% simple interest per year to each of those refunds from the date of payment to the date of settlement.*
- *Refund any finance instalments paid between 20 August 2021 and the 25 February 2022 in respect of the loss of use Miss C experienced.*

- *Provide a pro-rata refund of any insurance Miss C can demonstrate she paid for the car during the period it was off the road. Add 8% simple interest per year to that refund from the date of payment to the date of settlement.*
- *Pay Miss C £250 to compensate her for the distress and inconvenience she's experienced.*

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Miss C accepted my provisional decision but MotoNovo didn't. They said they'd based their findings on the report they had commissioned which had confirmed that the fault would not be unexpected on a vehicle of this age and mileage. They said that suggested the car was durable and it was unreasonable to ask them to pay compensation for distress and inconvenience when that had been caused by the warranty company's decision to reject the claim.

I've already explained why I disagree the car was durable. I said:

*"I don't think a reasonable person would expect such a significant problem in a car after only about 25,000 miles of driving, even in a car of this age. Whilst I understand that electrical faults can happen at any time I think it's reasonable to expect electrical components to have been durability tested by a manufacturer and to last longer than this one has. Especially when the failure of the component means the car battery can no longer charge and the car can't therefore be driven".*

I don't think I've seen any further evidence that would lead me to change that opinion and as I think MotoNovo were responsible for the car not being of satisfactory quality it follows that I think they're also responsible for any costs incurred as a consequence of its failure.

### **Putting things right**

I've not been provided with evidence that has led me to change my provisional decision and that now becomes my final decision on this complaint.

### **My final decision**

For the reasons I've given above I uphold this complaint and to tell MotoNovo Finance Limited to:

- Refund the £2,373.40 that Miss C had to pay to have the car repaired and add 8% simple interest per year to that refund from the date of payment to the date of settlement.
- Refund the £605 Miss C paid to have the car towed, the £60 she paid to have the car moved, and the £300 she paid to transport the car back to the dealership. Add 8% simple interest per year to each of those refunds from the date of payment to the date of settlement.
- Refund any finance instalments paid between 20 August 2021 and the 25 February 2022 in respect of the loss of use Miss C experienced.
- Provide a pro-rata refund of any insurance Miss C can demonstrate she paid for the car during the period it was off the road. Add 8% simple interest per year to that refund from the date of payment to the date of settlement.
- Pay Miss C £250 to compensate her for the distress and inconvenience she's experienced.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 14 September 2022.

Phillip McMahon  
**Ombudsman**